

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA**

JASPER LLOYD DOCKERY,

Petitioner,

v.

**Civil Action No. 5:06cv140
(Judge Stamp)**

AL HAYNES, Warden,

Respondent.

**ORDER RESCINDING ORDER DIRECTING
PETITIONER PAY THE \$5.00 FILING FEE**

On February 21, 2007, the undersigned entered an Order granting the petitioner's Motion to Proceed In Forma Pauperis, but requiring him to pay the required \$5.00 filing fee because he had a private savings account with a balance of \$2,000.00. On March 22, 2007, the petitioner filed a request that the Court reconsider that portion of the Order directing him to pay the \$5.00 filing fee because his financial circumstances had changed. Specifically, the petitioner asserted that the IRS had levied his private bank account and that his account now had a \$0.00 balance.

After consideration of the financial documents submitted by the petitioner, the Court accepted that the petitioner no longer had funds in a private account from which to pay the filing fee. Therefore, the Court agreed to reconsider its Order directing the petitioner pay the \$5.00 fee. However, the Court noted that it had no documentation from which to assess the petitioner's current financial situation. Thus, the petitioner was directed to file updated copies of the ledger sheets from

his inmate account. The Court received the updated ledger sheets on October 4, 2007.¹

The petitioner's updated trust fund statement shows that in the preceding six months, the petitioner's monthly deposits averaged only \$5.25. In addition, although the petitioner currently has a balance of \$7.35, he also has several liens against his account. Therefore, the undersigned **RESCINDS** that portion of the February 21, 2007, Order which directs the petitioner to pay the \$5.00 filing fee. Based on his current financial status, the petitioner will not be required to pay the \$5.00 filing fee in order for this case to proceed.

IT IS SO ORDERED.

The Clerk is directed to send a copy of this Order to the *pro se* petitioner.

DATE: October 10, 2007.

/s *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE

¹ Giving the petitioner the benefit of the mailbox rule, the ledger sheets received on October 4, 2007, were timely filed. Therefore, the petitioner's Motion for Extension of Time to file the forms (dckt. 22) is **DENIED as moot**.